

ORDINANCE NO. 46-247

AN ORDINANCE AMENDING SECTIONS 6.12.010, 6.12.020, 6.12.030, 6.12.040, 6.12.050, 6.12.060, 6.12.070, 6.12.080, 6.12.085, 6.12.090 AND 6.12.100 AND ENACTING SECTIONS 6.12.045 AND 6.12.095 OF THE CODE OF THE CITY OF WICHITA, KANSAS PERTAINING TO ANIMAL MAINTENANCE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 6.12.010, 6.12.020, 6.12.030, 6.12.040, 6.12.045, 6.12.050, 6.12.060, 6.12.070, 6.12.080, 6.12.085, 6.12.090, 6.12.095 and 6.12.100 of the Code of the City of Wichita, Kansas shall read as follows:

Section 6.12.010 Definitions

"Person" as used in this chapter means any individual, firm, association, joint stock company, syndicate, partnership, corporation, other state franchised business entity such as a professional association, limited liability company, or limited liability partnership, or other organization of any kind.

"Domestic animals" as used in this chapter means all animals that have been tamed or domesticated such as, but not limited to dogs, cats, cattle, horses, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild mammals or birds.

"Fowl" as used in this chapter means all domesticated animals that are included in the zoological class Aves other than ratites.

"Ratites" as used in this chapter means domesticated large flightless birds classified as livestock under Kansas law, such as ostriches and emu.

"Domestic animal shelters" as used in this chapter means all pens, houses, or structures where domestic animals are confined, such as, but not limited to, hutches, cotes, lofts, kennels, dog runs, warrens, feed lots, barns or other buildings and enclosures. The term does not apply to perimeter fencing surrounding at least 50 percent of an entire property.

"Waste" or "wastes" as used in this chapter means manure or the body discharge of all domestic animals, spilled feed or unconsumed feeds, and liquid cleaning wastes including suspended solids resulting from cleaning operations.

"Refuse" as used in this chapter means all putrescible and nonputrescible waste materials (except animal body discharges) such as trash, garbage, dead animals, paper, cardboard, tin cans, glass, wood, metals, salvage, or inert materials produced or accumulated in connection with the maintenance of domestic animals.

"Garbage" as used in this chapter means the putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food for human beings.

"Premises" as used in this chapter means a lot, tract or parcel of land including the dwelling and structures, if any, located thereon.

"Residential classification" as used in this chapter shall apply to property on which persons maintain domestic animals on premises with less than five acres of land provided. Domestic animal maintenance on a residential classification property shall only consist of the keeping of domestic animals as pets for personal use.

"Commercial classification" as used in this chapter shall apply to property on which persons maintain domestic animals on premises used for kennels, catteries, animal

“day care” businesses, poultry houses, rabbit slaughter houses, medical research facilities, pet shops, stables, riding academies, promotional demonstrations and domestic animal shows where admission is charged or where the circumstances in carrying out the particular animal maintenance involve the holding, raising or care of domestic animals offered as a service or sale directly to the general public, provided that a cattery where all the cats are owned by the cattery operator and all the cats are kept inside a building on premises used for residential purposes shall be permitted as a home occupation in accordance with Title 28 of this code and subject to the requirements of Title 6 of this code.

"Industrial classification" as used in this chapter shall apply to property on which persons maintain domestic animals on premises used for livestock auctions, packing plants and locker plants, feed lots and scientific enterprises involving livestock, or where the conduct of such activity involves the holding, raising or care of domestic animals offered as a service or sale not directly to the general public. Such operations are to be conducted only in those areas where the land use of such area is industrial.

"Agricultural classification" as used in this chapter shall apply to property on which persons maintain domestic animals or bees on premises having a land area of five acres or more and where there are maintained no more than one head of cattle or two head of sheep or one head of horses or two head of goats per acre of land used for such maintenance and where part of the animal sustenance is obtained from grazing.

"Kennel" as used in this chapter means any premises where there is being maintained a total of five or more dogs or more than two unspayed female dogs for business purposes, except veterinary hospitals. This term does not include foster homes

operated under the auspices of rescue organizations licensed by the Kansas Department of Animal Health.

"Cattery" as used in this chapter means any premises where there is being maintained or harbored a total of five or more cats or more than two unspayed female cats, except veterinary hospitals. This term does not include foster homes operated under the auspices of rescue organizations licensed by the Kansas Department of Animal Health.

"Stockyards" means a public terminal stockyards posted by the packers and stockyards division of the United States Department of Agriculture.

"Veterinary hospitals" means a domestic animal hospital operated by a doctor of veterinary medicine, licensed by the state. Veterinary hospitals are excluded from the classification definitions as used in this chapter.

"Health Officer" as used in this chapter means the director of the City of Wichita Department of Environmental Health or his or her authorized representative.

Section 6.12.020 Enforcement by Health Officer--Powers--Duties.

The Health Officer shall be responsible for the enforcement of this chapter and is hereby authorized to make such investigations, to issue notices, orders, and directions as are necessary for the enforcement of the provisions of this chapter and shall issue permits as herein required.

Section 6.12.030 Permit to Keep--Fees Listed--Exception.

Any person keeping in his possession and control or who is keeping or harboring or maintaining within the corporate limits of the city more than three fowl, two rabbits, two dogs, two cats, or one sheep, goat, horse, cow, ratite, or more than two domestic

animals of another kind, shall secure a permit from the Department of Environmental Health and pay an annual fee to the license collector in accordance with the appropriate classification as follows: residential classification, twenty dollars; commercial classification, fifty dollars; industrial classification, one hundred dollars; agricultural classification, fifty dollars; agricultural classification, for bee keeping only, twenty dollars. Permits shall not be required for indoor non-commercial maintenance of fish, nonpoisonous amphibians and reptiles allowed by Section 6.04.040, birds, and small rodents or fur-bearing mammals.

Should any person come under the terms of more than one classification, it is herein provided that he shall pay a permit fee at the highest applicable rate; provided, that for persons engaged in the business or operation of dog shows, demonstrations, livestock shows or any other shows or exhibitions involving domestic animal maintenance on any premises or in any building or structure under the jurisdiction of the city manager or in connection with 4-H livestock shows, the permit fee may be waived subject to all other provisions of this chapter.

Section 6.12.040 Number of Certain Animals Limited.

No more than the following enumerated domestic animals, nor more than three different kinds of domestic animals shall be maintained on any one premise coming within the definition of the term residential classification; two nanny goats, twelve rabbits, twelve fowl other than pigeons, twenty five pigeons, two horses or other equines, one cow, two sheep, two ratites, four dogs, four cats or two domestic animals of other kinds not herein specified, subject to the provisions of this chapter, provided that this section shall apply

only to mature animals that are fully weaned and shall not apply to common carriers transporting domestic animals to or through the city.

Section 6.12.045 Keeping of Certain Fowl Prohibited.

It is unlawful for any person to keep or maintain roosters (male chickens,) guinea cocks, peacocks, or other birds that by nature exhibit loud calls within the corporate limits of the city, except for stockyards or packing house operations, special scientific operations in industrial areas, or activities in conjunction with livestock shows; provided further that other commercial, industrial or agricultural maintenance of roosters may be approved if the commercial, industrial or agricultural premises is located five hundred or more feet from any residentially zoned lot as defined in Title 28 of this code.

Section 6.12.050 Kennels and Catteries.

Kennels where a total of five or more dogs or more than two unspayed female dogs are maintained for business purposes may not be located in any residentially zoned lot as defined in Title 28 of this code. All cats maintained at a cattery located on any residentially zoned lot as defined in Title 28 of this code shall be confined inside a structure. In addition to the permit required under this chapter, commercial catteries located on any residentially zoned lot as defined in Title 28 of this code require issuance of a home occupation license through the Office of Central Inspection.

Section 6.12.060 Hog Maintenance.

(a) Except as provided in subsection (b) of this section, it is unlawful for any person to keep or maintain any hog pens or hogs or male goats within the corporate limits of the city, except for stockyards or packing house operations, special scientific operations in industrial areas, or activities in conjunction with livestock shows; provided further that

other industrial or agricultural maintenance of hogs may be approved if the industrial or agricultural premises is located five hundred or more feet from any residentially zoned lot as defined in Title 28 of this code; provided, however, that this distance requirement maybe waived by the Health Officer.

(b) Registered purebred miniature Vietnamese potbelly pigs and other similar registered purebred miniature pigs may be kept within the city limits, subject to the conditions stated in subsections (c) and (d) of this section.

(c) It is unlawful for any person to maintain a registered purebred miniature pig which:

- (1) Weighs more than eighty pounds;
- (2) Is not spayed or neutered upon reaching maturity;
- (3) Has not undergone a blood test to show the animal is free from pseudorabies; or
- (4) Is maintained as a food source.

(d) It is unlawful for any person to:

- (1) Keep a registered purebred miniature pig without a current animal maintenance permit;
- (2) Maintain more than one registered purebred miniature pig at one licensed premises.

Section 6.12.070 Domestic Animal Shelters and Enclosures.

Domestic animal shelters used for horses or other equines, a cow, sheep, ratites, or similar large domestic animals, on properties coming within the definition of the term residential classification, shall not be less than two hundred feet from any adjacent dwelling and not less than ten feet from any property line. All other domestic animal

shelters on properties coming within the definition of the term residential classification shall not be less than ten feet from any property line if located within fifty feet of an adjacent dwelling. Domestic animal shelters on properties coming within the definition of the terms of commercial and industrial classification shall not be less than two hundred feet from any adjoining premise that is located on any residentially zoned lot as defined in Title 28 of this code. The Health Officer will evaluate properties for which valid residential classification permits exist on the effective date of this section, and will issue waivers of distance and setback requirements where such waivers do not adversely affect public health and safety, pose a threat to the environment, or constitute a nuisance to adjacent householders. Criteria for review will include, in addition to site-specific requirements, the following universally applicable requirements:

- (a) That the animals will be kept or maintained at all times in a safe and sanitary manner,
- (b) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition,
- (c) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement,
- (d) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property,
- (e) That the keeping of such animals will not harm the surrounding neighborhood or unreasonably disturb the peace and quiet of the surrounding neighborhood,

- (f) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored,
- (g) That the animals will not repeatedly run or be found at large, will not damage property or deposit excretory matter upon the property of anyone other than their owner,
- (h) That the animals will not make disturbing noises, i.e., continued and repeated or untimely howling, barking, whining or other similar utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be unreasonably offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.
- (i) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

In considering waivers, the Health Officer will consider:

- (a) Specific location of the animal shelter or enclosure on the property in question,
- (b) The size of the lot and distance of the shelter or enclosure to adjacent property lines and dwellings,

- (c) Structures located on or uses made of the adjacent property and the likelihood that a waiver would adversely affect the use of the adjacent property,
- (d) Type and number of animals to be maintained and the potential for creation of a nuisance,
- (e) Any history of complaints and violations concerning the permit holder's compliance with animal maintenance standards,
- (f) Any comments of neighbors, and
- (g) Any other available information concerning the potential for creation of a nuisance.

Upon transfer of the property or a change in tenant, such waivers will remain valid for successive owners or tenants unless revoked for cause by the Health Officer. Individuals aggrieved by any decision of the Health Officer relative to waivers may appeal to the City Council Office within ten days notice of such decision.

Section 6.12.080 Health Standards--Minimum listed.

That the following minimum environmental health standards shall be observed and followed by persons subject to the terms of this chapter;

- (a) All domestic animal shelters shall be cleaned at least once each week or as often as necessary to prevent or control odors, fly breeding, and rodent infestation; provided, however, that this shall not apply to grazing areas coming within the definition of the term agricultural classification or to stockyards.

(b) Domestic animal shelters owned or operated by a stockyard shall be cleaned as often as is necessary, as determined by the Health Officer, to control fly breeding or to control other conditions adversely affecting the public health.

(c) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill or transfer station, fertilizer processing plant, by proper dispersal on land used for agricultural purposes, or other method approved by the Health Officer.

(d) Grain or protein feed shall be stored in tightly covered rodent proof metal containers or rodent proof bins.

(e) Premises subject to the terms of this chapter shall be maintained free of rodent harborage.

(f) Use shall be made of effective chemical or other approved means for the control of rodents and flies.

(g) Use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(h) All domestic animal shelters and fences shall be maintained in good repair.

(i) Enclosures, including fences, for domestic animals such as horses, cows, sheep and goats, ratites, or other livestock or large animals shall be constructed in a manner to prevent domestic animals from breaking out or causing hazard to persons or property.

(j) Garbage shall not be fed to fowl.

(k) Refuse shall be stored in a manner approved by the Health Officer and disposed of at least once each week or as frequently as may be required by the Health Officer.

(l) Wastes accumulated from the cleaning of domestic animal shelters maintained on properties subject to a residential classification permit shall be stored in metal containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(m) Barbed-wire fences and electrically charged fences shall not be permitted for animal enclosures except on properties for which an agricultural classification permit is held, or for which the fence has strands six feet above ground level, on other properties where the barbed wire fence or electrically charged fence is protected by an exterior fence.

(n) Holding lots, pens and floors of sheds and buildings where domestic animals are held and which are maintained subject to an industrial classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into water courses. Such drainage systems shall be subject to the approval of the Health Officer. The Health Officer may waive this standard for domestic animal holding operations where such animal holding is longer than twenty-four hours or where dirt lots are more appropriate to the proper care of cattle, horses, sheep, or other livestock.

(o) Wastes accumulated from the cleaning of domestic animal shelters maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by

the Health Officer. All solid wastes shall be properly disposed of as least once each week or as approved by the Health Officer.

(p) Slaughter of animals is prohibited on residentially zoned lots. This prohibition shall not apply to processing of fish or game lawfully taken for individual consumption, nor shall it apply to the slaughter of animals as part of religious practices to be conducted on the property on which the slaughter occurs.

Section 6.12.085 Pet Shop, Kennel, Cattery, and Animal “Day Care” Regulations.

All pet shops, commercial catteries, kennels, and pet “day care” businesses shall:

(a) Maintain records and retain such records for a two year period on all dogs and cats maintained in such facility. Such records shall show breed, color, markings, sex and age; date received and source including name and address of owner or previous owner; purpose for which the animal is maintained; date and disposition of animal including name and address of new owner if applicable; disease prevention and/or treatment and by whom;

(b) Provide cages and pens constructed of nontoxic, easily cleanable, water impervious materials if used for confining animals and shall keep such cages and pens clean and sanitary at all times;

(c) Provide adequate space and ventilation to prevent overcrowding and to minimize contagion;

(d) Provide general environmental conditions including endoparasite and ectoparasite control, clean wholesome food and water, weather protection and clean and sanitary facilities other than housing so as to enhance the health and well being of such animals.

Section 6.12.090 Pigeons--Conditions for Keeping--Letting Loose in City.

Every person who owns, controls, keeps, maintains or harbors any pigeons in the city shall at all times keep them confined in proper cages or pens; provided, however, that what are generally known as seamless banded pigeons, being pigeons banded by a recognized association of pigeon fanciers, may be released in compliance with this section. This section shall not apply to common carriers of interstate commerce who have received shipments of such seamless banded pigeons in releasing such pigeons within the corporate limits of the city for the purpose of starting such pigeons in a pigeon race. Any person owning or keeping any seamless banded pigeons such as flying tippers, tumblers, homing pigeons or rollers may release such pigeons for exercise or performance, upon the condition that the owner or person who has possession of such pigeons shall not permit them to alight upon the buildings or property of others.

Section 6.12.095 Waivers.

The Health Officer may grant a variance to the requirements of this chapter based on physical or geographical features of the site for which the variance is requested that are not compatible with the requirements of this chapter, alternative methods available to attain the objectives of this chapter, or the Health Officer's determination that the variance will not adversely affect public health and safety or the environment. Individuals aggrieved by any decision of the Health Officer relative to waivers may appeal to the City Council within ten days of such decision.

Section 6.12.100 Premises Open for Inspection.

All places and premises on which any domestic animals as described by this chapter are kept or maintained shall be open during reasonable hours for inspection by

the Health Officer. If on such an inspection any person who has been granted a permit or license is found violating any of the regulations prescribed in this chapter, such person shall be given a written notice of such violation and if such violation or violations do not cease within twenty-four hours, the permit may be revoked or canceled by action of the Health Officer, subject to the right of appeal to the City Council within ten days.

SECTION 2. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this 21st day of September, 2004.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law